

BEFORE THE
CALIFORNIA GAMBLING CONTROL COMMISSION

In the Matter of the Application for Approval
of Third-Party Player Services License for
Supervisor, Player or Other Employee
Regarding:

PEDRO FABIAN REYES-AMADO
Applicant.

CGCC Case No. GCCC-2019-0516-8Bi
BGC Case No. BGC-HQ2019-00017SL

DECISION AND ORDER

Hearing Date: November 6, 2019
Time: 10:00 a.m.

This matter was heard by the California Gambling Control Commission (Commission) pursuant to Business and Professions Code sections 19870 and 19871 and Title 4, California Code of Regulations (CCR) section 12060, in Sacramento, California, on Wednesday, November 6, 2019 at 10:00 a.m.

Deputy Attorney General Collin Wood, Department of Justice, Attorney General's Office, State of California, represented complainant Stephanie Shimazu, Chief of the Bureau of Gambling Control (Bureau), Department of Justice, State of California (Complainant).

Applicant Pedro Fabian Reyes-Amado was present on his own behalf without representation (Applicant).

During the administrative hearing, Presiding Officer Jason Pope took official notice of the Notice of Hearing, which included Applicant's Application and the Bureau's Report, the Complainant's Statement of Reasons, Applicant's signed Notice of Defense, and the Conclusion of Prehearing Conference Letter.

During the administrative hearing, Presiding Officer Jason Pope accepted into evidence the following exhibits offered by the Complainant:

- (1) Statement of Reasons; Statement to Applicant; excerpts from the California Business and Professions Code and CCR; Certificate of Service by Certified Mail Service; and a Notice of Defense, dated May 25, 2019, Bates Nos. 001-025;
- (2) Commission Memorandum, Notices and Letters:

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- a. May 17, 2019, correspondence to Applicant, Referral of Third-Party Proposition Players Services License to an Evidentiary Hearing, Bates Nos. 026-027;
 - b. July 23, 2019, Notice of Hearing with attachments, Bates Nos. 028-045;
 - c. September 17, 2019, correspondence to Applicant, Conclusion of Pre-hearing Conference, Bates Nos. 046-052;
- (3) Applicant’s Application for Third-Party Proposition Player Services License for Supervisor, Player or Other Employee, and Level I Supplemental Information, Bates Nos. 053-064;
 - (4) The Bureau’s February 2019, Third-Party Player Initial Background Investigation Report, Level III, for Applicant, Bates Nos. 065-075;
 - (5) May 3, 2018 correspondence to Applicant, Notice of Scheduled Commission Meeting and May 16, 2019 Commission Licensing Division Memorandum without attachments, Bates Nos. 076-079;
 - (6) The Bureau’s Registration History for Applicant and Certification of Official Records, Bates Nos. 080-081;
 - (7) Notice to Appear and Court Records from the Superior Court of California, County of Los Angeles, case number 6PD00080, *The People of the State of California vs. Pedro Fabian Reyes Amado*, Bates Nos. 082-098;
 - (8) Correspondence between the Bureau, Blackstone Gaming and Applicant, Bates Nos. 099-132;
 - (9) Appointment of Designated Agent for Owners and Proposition Players signed by Applicant on January 22, 2019, Bates Nos. 133.

During the administrative hearing, Presiding Officer Jason Pope accepted into evidence the following exhibit offered by the Applicant:

- (A) Copy of Applicant’s California Driver’s License and summary of car

1 insurance policy.

2 The matter was submitted on Wednesday, November 6, 2019.

3 **FINDINGS OF FACT**

4 1. On or about December 1, 2016, the Commission issued Applicant a registration,
5 Number TPPL-018701 as a third-party proposition player for Blackstone Gaming, LLC
6 (Blackstone).

7 2. On or about May 22, 2017, the Bureau received an Application for Approval of Third-
8 Party Player Services License for Supervisor, Player or Other Employee with a supplemental
9 application form (Application) from Applicant, signed on May 10, 2017, to allow for his
10 continued employment as a third-party proposition player for Blackstone.

11 3. On or about February 15, 2019, the Bureau submitted a Third-Party Player
12 Background Investigation Report (Bureau Report) to the Commission recommending the
13 Commission deny the Application on the basis that Applicant drives with a suspended driver's
14 license and failed to provide information to the Bureau.

15 4. At its May 16, 2019, meeting, the Commission referred Applicant's Application to an
16 evidentiary hearing, pursuant to CCR section 12054, subdivision (a)(2) to be held pursuant to
17 CCR section 12060 with the Bureau to serve as Complainant.

18 5. On or about May 31, 2019, the Commission received Applicant's Notice of Defense,
19 dated May 25, 2019.

20 6. In September 2019, the Bureau filed a Statement of Reasons with the Commission
21 alleging two causes for denial of the Application based on Applicant's failure to timely provide
22 complete information to the Bureau and a history of disregard for the law for driving with a
23 suspended license.

24 7. In the course of the Bureau's investigation, it was confirmed that on or about July 21,
25 2016, Applicant was convicted by a plea of nolo contendere on of violating Vehicle Code section
26 23152, subdivision (b), driving under the influence of alcohol (DUI) with a blood alcohol level of
27 .08 or higher, a misdemeanor. Applicant was sentenced to three years of probation, ordered to
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1 complete a 3-month first offender alcohol education and counseling program, and pay fines and
2 restitution totaling approximately \$1,814.00. Applicant disclosed the conviction and the fact that
3 he was on probation on his Application.

4 8. On August 17, 2017 the Bureau sent correspondence to Applicant's Designated Agent
5 (DA) requesting additional information from Applicant on a number of issues, including an
6 explanation of the circumstances surrounding his conviction, how Applicant got to work, and a
7 request for more precise dates for two of the places Applicant lived and worked. The letter
8 requested a response by August 27, 2017.

9 9. Applicant responded through his DA on August 31, 2017. Applicant responded that he
10 drives his car to work, and provided additional information regarding the dates of his residence
11 and employment, and information regarding the circumstances surrounding his conviction.¹

12 10. On November 2, 2017 and December 18, 2017, the Bureau wrote to Applicant's DA
13 again requesting that Applicant provide a statement regarding the circumstances that led to his
14 conviction. A response was requested by December 25, 2017.

15 11. On December 22, 2017, Applicant responded to the Bureau through his DA that he
16 commutes to work by using Uber, public transportation, and rides from others. Applicant also
17 provided a signed a statement describing the circumstances leading to his arrest for DUI.

18 12. On December 29, 2017, the Bureau wrote to the Applicant's DA asking for an
19 explanation from Applicant as to how he commutes to and from work. Specifically, the Bureau
20 asked Applicant to explain the discrepancy between his statement that he drove to work and his
21 later statement that he used Uber, public transportation and was dropped off. A response was
22 requested by January 10, 2018.

23 13. On April 4, 2018 the Bureau sent a further letter stating that applicant had not
24 provided the information requested in the December 29, 2017 request and extending the response
25 due date to April 11.

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27 ¹ Specifically, Applicant stated, "I don't have my court documents about my DUI, I'm on 3 year
28 summary probation (2nd year) license still suspended, paid court a fee over \$1,800, completed DUI classes
AA and AB41 last year November 2016..."

1 14. On June 6, 2018, the Bureau requested clarification on how Applicant commutes to
2 and from work. A response was requested by June 17, 2018, which was later extended to July 2,
3 2018.

4 15. Applicant did not respond to the June 2018 letter until October 3, 2018. Applicant
5 wrote that he was currently driving his car to work and previously also used Uber and the city
6 bus.

7 16. On January 18, 2019, consistent with his prior response, Applicant again wrote to the
8 Bureau stating that he gets to work with his car, Uber, and public transportation and has used
9 various options over time.

10 17. At the hearing, Applicant testified regarding the Bureau's allegations that he failed to
11 timely respond to requests for information. Applicant acknowledged that he was acting
12 irresponsibly by not timely responding to the Bureau's inquiries. Applicant testified that in
13 October 2018, his DA explained the serious nature of the Bureau's inquiry to him and that
14 prompted him to respond.

15 18. Applicant testified that in the past, some of the Bureau's emails went to his junk mail
16 folder. However, Applicant still received the requests by regular mail and from his DA by email.
17 Applicant testified that he has adjusted settings in his Email to ensure that any future messages
18 from the Bureau are delivered to his inbox so that he can immediately respond. Applicant testified
19 that since October 2018, he has responded to his DA and the Bureau as quickly as he can.

20 19. Applicant completed the 3-month first offender DUI program on November 30, 2016
21 and paid his fines in full on May 5, 2017.

22 20. Applicant testified that he timely completed all of the prerequisites for seeking
23 reinstatement of his license. However, he was not immediately able to seek reinstatement of his
24 license because he could not afford insurance.

25 21. Applicant testified that in April 2016 his license was reinstated, but he couldn't keep
26 up with the insurance payments and it was cancelled again. Applicant's driver's license was again
27 reinstated on February 19, 2019 with a restriction requiring an ignition interlock device and he
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1 currently has a valid license and insurance. Applicant expressed regret that it took him so long to
2 reinstate his driver's license.

3 22. Applicant testified that while his license was suspended he originally used Lyft and
4 Uber to commute to work, which cost him up to \$200 a week. Eventually Applicant stopped
5 using Lyft and Uber due to the high cost.

6 23. Applicant testified that he also took the city bus to work. However, Applicant stopped
7 taking the bus due to safety concerns. Applicant worked the graveyard shift and had to take the
8 bus through a dangerous area late at night/early in the morning. Applicant had intimidating
9 experiences with other passengers on the bus, including attempted theft and a near fight over a
10 seat. Applicant began driving to work despite the fact that he did not have a valid license and
11 knew that driving without a license was illegal.

12 24. Applicant testified that at age 20, he had many personal problems and was abusing
13 alcohol. Applicant testified that he wasn't being dedicated, ambitious, or responsible at that time.
14 However, the year 2017 provided a "fresh start" for Applicant. Applicant was aided by the
15 AB541² class and spending time with sober friends. Applicant testified that now he is more
16 humble, ambitious, and hardworking and feels that he is an improved version of himself.

17 25. Applicant disclosed his conviction on the Application and provided follow up
18 information to the Bureau on the circumstances of his conviction, such as the terms of his
19 probation, fines paid, etc. However, what the Bureau actually wanted was a statement regarding
20 the circumstances leading to the initial arrest. This appears to be a misunderstanding by Applicant
21 given that he readily disclosed the fact of the conviction and consequences of the conviction. The
22 Commission concludes that Applicant did not intend to withhold information regarding his
23 conviction from the Bureau.

24 26. At no point did Applicant deny that he drove to work without a license, in fact, he
25 voluntarily disclosed that information to the Bureau early in their investigation. Applicant could
26 have provided a more detailed explanation when he later stated that he also used Uber and public

27 ² AB 541 is an apparent reference to the alcohol awareness class required of first offenders which
28 was created by Assembly Bill 541 in 1981.

1 transportation, but he did not fail to disclose the fact that he drove to work to the Bureau.

2 27. Applicant should have responded to the Bureau's June 6, 2018 letter in a timelier and
3 more thorough manner. Applicant's delay is mitigated by the fact that he previously provided the
4 information requested regarding how he commuted to work and timely responded to prior
5 requests in August and December 2017. Additionally, Applicant's testimony that he will provide
6 timely responses to Bureau inquiries in the future was credible.

7 28. There was no evidence presented during the evidentiary hearing that Applicant has
8 been convicted of a crime other than his conviction for DUI in July 2016.

9 29. There was no evidence presented during the evidentiary hearing that Applicant has
10 had any employment-related issues while working for Blackstone.

11 30. The Commission is concerned that Applicant continued to drive his vehicle with a
12 suspended driver's license. However, Applicant's testimony that he is more responsible and
13 mature now is persuasive. Applicant is advised that any future disregard for the law will be taken
14 very seriously by the Commission.

15 31. All documentary and testimonial evidence submitted by the parties that is not
16 specifically addressed in this Decision and Order was considered but not used by the Commission
17 in making its determination on Applicant's Application.

18 **LEGAL CONCLUSIONS**

19 32. Division 1.5 of the Business and Professions Code, the provisions of which govern the
20 denial of licenses on various grounds, does not apply to licensure decisions made by the
21 Commission under the Gambling Control Act. (Business and Professions Code section 476(a).)

22 33. At an evidentiary hearing pursuant to Business and Professions Code sections 19870
23 and 19871 and Title 4, CCR section 12060(b), the burden of proof rests with the applicant to
24 prove his qualifications to receive any license under the Gambling Control Act. (Title 4, CCR
25 section 12060(i); Business and Professions Code section 19856(a).)

26 34. Public trust and confidence can only be maintained by strict and comprehensive
27 regulation of all persons, locations, practices, associations, and activities related to the operation
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1 of lawful gambling establishments and the manufacture and distribution of permissible gambling
2 equipment. (Business and Professions Code section 19801(h).)

3 35. An application to receive a license constitutes a request for a determination of the
4 applicant's general character, integrity, and ability to participate in, engage in, or be associated
5 with, controlled gambling. (Business and Professions Code section 19856(b).)

6 36. The Commission has the responsibility of assuring that licenses, approvals, and
7 permits are not issued to, or held by, unqualified or disqualified persons, or by persons whose
8 operations are conducted in a manner that is inimical to the public health, safety, or welfare.
9 (Business and Professions Code section 19823(a)(1).)

10 37. An "unqualified person" means a person who is found to be unqualified pursuant to
11 the criteria set forth in Business and Professions Code section 19857, and "disqualified person"
12 means a person who is found to be disqualified pursuant to the criteria set forth in Business and
13 Professions Code section 19859. (Business and Professions Code section 19823(b).)

14 38. The Commission has the power to limit, condition, or restrict any license for any cause
15 deemed reasonable by the Commission. (Bus. & Prof. Code section 10982(b).)

16 39. No gambling license shall be issued unless, based on all of the information and
17 documents submitted, the commission is satisfied that the applicant is a person of good character,
18 honesty and integrity. (Business and Professions Code section 19857(a).)

19 40. No gambling license shall be issued unless, based on all of the information and
20 documents submitted, the commission is satisfied that the applicant is a person whose prior
21 activities, criminal record, if any, reputation, habits, and associations do not pose a threat to the
22 public interest of this state, or to the effective regulation and control of controlled gambling, or
23 create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in
24 the conduct of controlled gambling or in the carrying on of the business and financial
25 arrangements incidental thereto. (Business and Professions Code section 19857(b).)

26 41. The commission shall deny a license to any applicant who is disqualified for failure of
27 the applicant to provide information, documentation, and assurances required by this chapter or
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1 requested by the chief, or failure of the applicant to reveal any fact material to qualification, or the
2 supplying of information that is untrue or misleading as to a material fact pertaining to the
3 qualification criteria. (Business and Professions Code section 19859(b).)

4 42. A requester shall be ineligible for licensing as a third party proposition player if the
5 requester has failed to meet the requirements of Business and Professions Code sections 19856 or
6 19857. (CCR section 12218.11(e).)

7 43. Applicant has met his burden of proving that he is a person of good character, honesty,
8 and integrity. Therefore, Applicant is qualified to receive a third party proposition player license
9 pursuant to Business and Professions Code section 19857(a). As a result, Applicant is not
10 ineligible to receive a third party proposition player license pursuant to CCR section 12218.11(e).

11 44. Applicant met his burden of proving that he is a person whose prior activities, criminal
12 record, if any, reputation, habits, and associations do not pose a threat to the public interest of this
13 state, or to the effective regulation and control of controlled gambling, or create or enhance the
14 dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of
15 controlled gambling or in the carrying on of the business and financial arrangements incidental
16 thereto. Therefore, Applicant is qualified to receive a third party proposition player license
17 pursuant to Business and Professions Code section 19857(b). As a result, Applicant is not
18 ineligible to receive a third party proposition player license pursuant to CCR section 12218.11(e).

19 45. Applicant has met his burden of proving that he is not disqualified from licensure
20 pursuant to Business and Professions Code section 19859 nor ineligible for licensing as a third
21 party proposition player pursuant to CCR section 12218.11.

22 **NOTICE OF APPLICANT'S APPEAL RIGHTS**

23 Applicant has the following appeal rights available under state law:

24 CCR section 12064, subsections (a) and (b) provide, in part:

25 An applicant denied a license, permit, registration, or finding of suitability,
26 or whose license, permit, registration, or finding of suitability has had
27 conditions, restrictions, or limitations imposed upon it, may request
28 reconsideration by the Commission within 30 calendar days of service of
the decision, or before the effective date specified in the decision,
whichever is later. The request shall be made in writing to the

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Commission, copied to the Bureau, and shall state the reasons for the request, which must be based upon either newly discovered evidence or legal authorities that could not reasonably have been presented before the Commission's issuance of the decision or at the hearing on the matter, or upon other good cause which the Commission may decide, in its sole discretion, merits reconsideration.

Business and Professions Code section 19870, subdivision (e) provides:

A decision of the commission denying a license or approval, or imposing any condition or restriction on the grant of a license or approval may be reviewed by petition pursuant to Section 1085 of the Code of Civil Procedure. Section 1094.5 of the Code of Civil Procedure shall not apply to any judicial proceeding described in the foregoing sentence, and the court may grant the petition only if the court finds that the action of the commission was arbitrary and capricious, or that the action exceeded the commission's jurisdiction.

CCR section 12066, subsection (c) provides:

A decision of the Commission denying an application or imposing conditions on license shall be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition shall be affected by failure to seek reconsideration.

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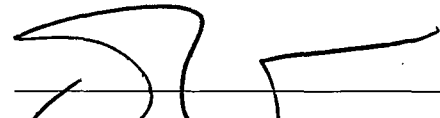
ORDER


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2 1. Pedro Fabian Reyes-Amado's Application for Approval of Third-Party Proposition
3 Player Services License is APPROVED.

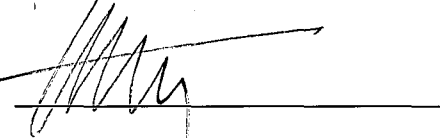
4 2. No costs are to be awarded.

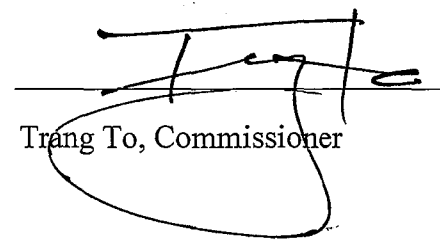
5 3. Each side to pay its own attorneys' fees.

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7 This Order is effective on November 22, 2019.

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9 Dated: 11/22/19 Signature: 
10 Jim Evans, Chairman

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12 Dated: 11/22/19 Signature: 
13 Paula LaBrie, Commissioner

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15 Dated: 11/22/19 Signature: 
16 Gareth Lacy, Commissioner

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18 Dated: 11/22/19 Signature: 
19 Trang To, Commissioner
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